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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,438	11/16/2001	Bruce Young	P1758US00	6122

24333 7590 02/10/2004

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EXAMINER
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PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
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2182

DATE MAILED: 02/10/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/992,438

**Applicant(s)**

YOUNG, BRUCE

**Examiner**

Tammara R Peyton

**Art Unit**

2182

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1, 5, 8, 12, 15, 19, and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by *Chan*, (US 6,600,908).

As per claims 1, 8, 15, and 22, *Chan* teaches a system that automatically reproduces audio from either an analog or a digital source. *Chan* teaches a controller that directs a signal switch (342, Fig.5b) coupled to a digital to analog converter and FM demodulator that will selectively connects either the input from the digital to analog converter or the FM demodulator to an amplifier/speaker. Specifically, *Chan* discloses a

system that allows the user to receive 'on demand programming.' The system is programmed to regularly respond to a FM demodulator, but if the user requests 'on demand programming' the system will switch (via signal switch, 342) from the FM demodulator (analog) to the 'on demand programming' which is received in digital form. The received digital source is converted to analog via the digital to analog converter before being sent to the amplifier/speaker output. (*Chan*, col. 12, lines 30-42 and col. 13, lines 30-67, Fig.5B)

As per claims 5, 12, and 19, *Chan* teaches including a packet header detector. (col. 10, lines 21-29, Fig. 5a, 336 and 354)

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2-4, 8-12, 15-18, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Porrazzo et al.*, (US 5,872,855).

As per claim 1, 8, 15, 22, and 23, *Porrazzo* teaches a dual-mode speaker capable of automatically reproducing audio from either an analog or a digital source. Specifically, *Porrazzo* teaches the use of a speaker input, a means for detecting digital audio connected to said speaker input; and a digital to analog converter connected to said speaker input for converting a digital input signal into an analog signal, an amplifier and speaker. *Porrazzo* (col. 9, lines 25-52) teaches a system including internal switches that automatically recognizes whether the received signal is in analog or digital form. (*Porrazzo*, Figs 8-12, col. 9, lines 55-col. 10, lines 1-11) One of ordinary skilled would readily recognize that detecting a digital or analog signal is well known in the art. However, *Porrazzo* does not expressly teach a multiplexer or switch for changing said speaker input from the analog signal to a digital to analog converter when digital audio is detected. Nonetheless, *Porrazzo* specifically teaches “the digital signal can be converted to an analog signal with a digital to analog converter and *then* be sent to the loudspeaker”, col. 9, lines 50-52. *Porrazzo* teaches that there is no need to capture and convert the received analog source before sending the analog source to the loudspeaker. It would have been obvious to one of ordinary skill at the time the invention was made that the internal switches of *Porrazzo* teach some such of multiplexer or switch, because *Porrazzo* teaches automatic detection of a digital source or an analog source and capturing/converting the digital source to an analog source, if needed, before sending the digital source to the loudspeaker.

As per claims 2, 3, 4, 9, 10, 11, 16, 17, and 18, *Porrazzo* teach wherein said means for detecting digital audio includes a filter that detects a range (low or high) of frequencies. (col. 9, lines 25-45)

Claims 7, 14, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Chan*, (US 6,600,908) and previously cited art (paper #2) *Baker et al.*, (US 6,185,627)

As per claims 7, 14, and 21, *Chan* teaches a digital to analog convert but is silent in respect to the converter recognizing S/PDIF digital signals. *Baker* discloses that it is well known in the art that some digital to analog converter recognizes S/PDIF digital signals and packets and converts them to analog audio signals. (*Baker*, col. 6, lines 23-27 and col. 9, lines 19-23) It would have been obvious to one of ordinary skill at the time the invention as made that *Chan* would have been motivated to implement a digital to analog converter that recognizes S/PDIF digital signals, because doing so would add and expand the flexibility to *Chan's* digital to analog converter.

Claims 6, 13, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Chan*, (US 6,600,908) and *Shdema et al.*, (US 2002/0072816).

As per claim 6, 13, and 20, *Shdema* teaches wherein said digital to analog converter recognizes USB digital signals and packets and converts them to analog

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audio signals. (pg.11, Figs. 1-12) It would have been obvious to one of ordinary skill to implement *Shdema's* system use of recognizes USB digital signals to *Chan*. Do so would add and expand the flexibility of the system. Furthermore, it is well known in the art that audio systems are capable of outputting USB digital audio signal therefore implementing such a feature would be obvious.

### ***Conclusion***

Applicant's arguments with respect to claims 1-23 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (703) 306-5508. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin, can be reached on (703) 308-3301. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3718. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Mailed responses to this action should be sent to:

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Commissioner of Patents and Trademarks

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Faxes for Official/formal (After Final) communications or for informal or draft communications (please label "PROPOSED" or "DRAFT") sent to:

(703) 872-9306

Hand-delivered responses should be brought to:

USTPO, 2011 South Clark Place, Customer Window  
Crystal Plaza Two, Lobby Room 1B03, Arlington, VA, 22202Crystal Park II, 2121.



Tammara Peyton

February 5, 2004